

FEB 21 2014

David J. Bradley, Clerk of Court

IN THE UNITED STATES DISTRICT COURT

For the Southern District of TEXAS.

FEROZE ALI ABDULLAH)
 PLAINTIFF (Pro. Se))
 VS) CAUSE NO.:D-TXS-4-13-MC-001700 -001
HABIB BANK LIMITED)
 DEFENDANT)

Plaintiff: "Abdullah", Reply to Habib Bank Reply, to Plaintiff "Abdullah"

Response to Defendant Motion to Dismiss:

COMES NOW: FEROZE ALI ABDULLAH (Plaintiff) and files this Reply (this "Reply) to "Defendant" **Habib Bank** Response (**Response**) of 10th, February 2014, which response is filed in Respect of Plaintiff Response of 3rd and 5th February 2014: (Docket #15 & 16) and, in support here of would respectfully show to the court as follows:

I.

PRELIMINARY STATEMENT:

This reply is once again been made necessary to Defendant Motion of 21st, January, 2014, (Docket 12) and herein again to response of 10th, February 2014, when such motion is based on Defendant claim and response in opposition to Plaintiff motion for Default Judgment (Docket # 13)

PRELIMINARY STATEMENT:

a) In the Preliminary of 21st, January 2014: Defendant states “ In this case *Abdullah chose not to effectuate proper service of process on Habib Bank by personally serving process on Habib Bank,*

b) Likewise, in the Preliminary of 10th, February 2014, similar statement is recorded.

Abdullah failed- at a minimum- to follow the Federal Rules of Civil Procedure “ by personally serving a Copy of the Summons”

Abdullah, has stated by Documentary Evidence, in his reply of 3rd, and 5th, February (Docket 15 and 16) that service has been performed within the Framework of prescribed rules, Under

A) Under Applicable “Texas Law” (Enforcement of Foreign Judgment).

**B) Under “Federal Rules of Civil Procedure, Rule 4 (Summons) and 4(f)”
Serving an individual in Foreign Country**

**C) Under “Hague Convention” (of service Abroad of judicial and
Extrajudicial Documents). Article 10 & 10(a) and**

**D) Under “Declaration” from recipient “Country ” (Pakistan) having
NO objection to Service by Postal Channels directly to the persons
concerned.**

Whereas, Defendant all along has based his argument and claim on Hypothetical Assertions and Misrepresentation of facts , without any Documentary evidence nor by way of an Affidavit to claim his justification to Service of document *physically been made by the Plaintiff “Abdullah” on to the*

Defendant at Karachi (Pakistan), when in fact Plaintiff has been Physically Present in Houston:

Plaintiff, would further like to state that, defendant application as to the Motion to dismiss and Motion for Default, are almost similar, Plaintiff has given proper reply in Plaintiff Motion to reconsider Court order of 30th, January 2014.

Defendant , claim that, court denied Abdullah Motion for default Judgment on 14, January 2014, is **Incorrect**, there **exist NO SUCH ORDER**.

Reference by defendant, under Federal Rule 4 (c) (2) *who* may effect service. Defendant states: that, Federal Rule 4 (f) and (f)(1) and not 4(C) is the proper code of service Abroad.

Ref: in 4 (C) 2 : states **by whom**: any person who is at least 18 Years old and Not a Party may Serve a Summon and Complaint.

Defendant is called upon strict proof, to define for all practical purpose, if **"Fedex" is a non party or a party**: when the law says, "Non Party is the One who has No Vested interest in the Outcome of the case".

Even otherwise, rule of Service under Federal Rule 4 (c) is not applicable to Rule 4(f) 1: when Rule 4 (C) (1) has reference in Time Line allowed by **Rule 4(m): Time line as such in NOT applicable to Rule 4(f)1**: as stated in,

Rule 4 (m). states : Time Limit for Service. If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff must dismiss the action without prejudice against that defendant or order that service be made within a specified time, but if a plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. **This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1)**

All that Abdullah do was to **Mail** the Documents, .

“a” under the Directives of Clerk of the Court,

“b” Under the Federal Law,

“c” under Texas Rule.

“d ” under the Hague Convention of 1965, and

“e” under the Country Code of Pakistan:

Defendant, ONCE AGAIN in his reply relied on a number of Case Laws, which the Plaintiff claim “None of the Case Law referred to meets the merit and criteria of Service followed in the present case: (Ex. A-D)

Prayer:

Plaintiff , prays that in the interest of justice, Honorable court may be please, to set aside its order of 30th, January 2013, till such time it is proved by way of submission/motion which party is speaking the truth, and who deserves to have justice in his favor:

Respectfully Submitted.

4.

ib. 02/21/14
FEROZE A. Abdullah